103. In such cases, by the great weight of authority, the action is denied, generally upon the equitable ground that one who has elected to accept the benefits of a charity thereby releases the benefactor from liability for the negligence of his servant in administering the charity. *Powers* v. *Mass. Homœopathic Hospital,* 109 Fed. 294. In the principal case the injury was sustained by an outsider, and the court applies the rule *respondeat superior,* holding that there is no difference in such cases between the defendant and any other corporation. For an extended discussion of the principles involved, see 5 MICH. L. REV., pp. 552, 662.

MUNICIPAL CORPORATIONS—ORDINANCES—CONFLICT WITH STATUTES—POLICE POWER.—Statutes of the state of Georgia prohibited the sale of intoxicating liquor and made it unlawful for any person to keep it at any public place or at his place of business. An ordinance of the city of Macon forbade, under a penalty, the maintenance of "blind tigers" and keeping on hand intoxicating liquors for the purpose of illegal sale. Plaintiffs were convicted under the ordinance and sued out writs of habeas corpus, alleging that the city was without authority to pass the ordinance, and that the ordinance was void as attempting to punish a crime already punishable under state law. *Held,* that the city was empowered to prevent the illegal sale of liquor under the general welfare clause of its charter; that the offenses punished under the ordinance were not identical with those made criminal by the statute. *Callaway* v. *Mims* (1908), — Ga. App. —, 62 S. E. 654.

Under the "general welfare" clause common to most city charters, the city may restrain, under penalty, the illegal sale, and keeping for sale, of intoxicating liquors. *In re Jahn,* 55 Kan. 694, 41 Pac. 956. Ordinances providing for such restraint are upheld under the general municipal police power. *Henderson* v. *Heyward,* 109 Ga. 373, 34 S. E. 590, 47 L. R. A. 366, 77 Am. St. Rep. 384. And according to some decisions a municipal police regulation may punish acts also made criminal by statute. *Rogers* v. *Jones,* 1 Wend. 237, 19 Am. Dec. 493. These decisions are not, however, in accord with the weight of modern authority, which holds that a municipality may not, without express legislative authority, legislate in regard to acts already covered by the criminal laws of the state. *Judy* v. *Lashley,* 50 W. Va. 628, 57 L. R. A. 413, 41 S. E. 197. The court in the principal case adopts this view and then proceeds to uphold the ordinance in question by differentiating between the offense of "keeping liquor for sale" and "keeping it at any public place or place of business," holding them to be separate acts. This distinction, though close, seems justified by the decisions, and appears to open the only way for the easy suppression of the so-called "blind-tiger," which is defined in the principal case as "a place where liquors are sold on the sly in violation of law." *Menken* v. *City of Atlanta,* 78 Ga. 668, 2 S. E. 559.

RAILROADS—DUTY TO MAINTAIN CROSSING AFTER ELEVATING TRACKS.—The defendant elevated its tracks across Sixty-third street, in compliance with an ordinance of the City of Chicago. The street was lowered five feet and